



Rule and Interpretive/Policy Statement Review Checklist
(This form must be filled out electronically.)

This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Documents Reviewed (include title):

- **WAC 458-20-174 (Rule 174) Sales of motor vehicles, trailers, and parts to motor carriers operating in interstate or foreign commerce.**
- **WAC 458-20-17401 (Rule 17401) Use tax liability for motor vehicles, trailers, and parts used by motor carriers operating in interstate or foreign commerce.**

Date last adopted/issued: **May 13, 1997**

Reviewer: **Cindy Evans**

Date review completed: **April 4, 2002**

Is this document being reviewed at this time because of a taxpayer or business association request? (If "YES," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.) **YES** ☐ **NO** ☒

1. Briefly explain the subject matter of the document(s):

Rule 174 explains the retail sales tax exemptions for sales of motor vehicles, trailers, parts, and repair services to for-hire motor carriers operating in interstate or foreign commerce provided by RCW 82.08.0262 and 82.08.0263. This rule explains the requirements that must be met and the documents that must be preserved to substantiate a claim for a retail sales tax exemption.

Rule 17401 explains the use tax and the use tax exemptions provided by RCW 82.12.0254 that apply to for hire motor carriers operating in interstate or foreign commerce. This rule explains the requirements that must be met and the documents that must be preserved to substantiate a claim for a use tax exemption. It provides examples of how the methods of determining substantial interstate use would be applied to various situations for motor vehicles and trailers.

2. Need: For sections 2 through 9, type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

YES	NO	
	X	Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)



	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is "yes" that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
	X	Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)

Please explain.

These rules provide detailed tax reporting instructions to a class of taxpayers that would otherwise need to search multiple rules or multiple statutes to determine their correct tax reporting responsibilities. These rules are necessary to clarify how the exemptions apply, and to ensure that these exemptions are consistently applied.

3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?



If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities or help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?

Please explain.

These rules are written in a clear and concise manner. Rule 17401 is lengthy, but this length is the direct result of industry requests for clarity on a number of issues.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no,” identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain.

RCW 82.32.300 authorizes the Department of Revenue to make and publish rules.

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?



Please explain.

The Department generally has the exclusive authority for administering the retail sales and use taxes. However, RCW 82.12.045 authorizes the Department to designate county auditors or the Department of Licensing (DOL) as collection agents to collect use tax at the time a motor vehicle is registered. DOL's Prorate section has been authorized and trained to allow a use tax waivers at the time of registration. The Department provides telephone assistance to county auditors and independent licensing subagents to assist them in determining whether a use tax waiver is appropriate. These coordinating procedures eliminate the need for the person registering a motor vehicle to obtain a waiver from the Department prior to registering his or her vehicle.

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer "yes" only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain.

These interpretative rules impose no new or additional administrative burdens on businesses that are not imposed by law.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

9. LISTING OF DOCUMENTS REVIEWED: Use "bullets" with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented: **The following statutes are implemented to the extent that they apply to the sale and/or use of motor vehicles and trailers used in interstate transportation, and charges for component parts and repair services for such property.**



WAC 458-20-174:

- **RCW 82.04.050**—"Sale at retail" "retail sale."
- **RCW 82.04.220**—Business and occupation tax imposed.
- **RCW 82.04.250**—Tax on retailers.
- **RCW 82.08.0262**—Exemptions—Sales of . . . components . . . of motor vehicles or trailers
- **RCW 82.08.0263**—Exemptions—Sales of motor vehicles and trailers for use in transporting person or property in interstate or foreign commerce.

WAC 458-20-17401:

- **RCW 82.12.020**—Use tax imposed.
- **RCW 82.12.0254**—Exemptions—Use of . . . motor vehicle or trailer in the transportation of persons or property across state boundaries

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Appeal Division Decisions (WTDs):

Determination No. 99-330, 19 WTD 519 (2000)—Holding that retail sales and use tax exemptions are provided for component parts purchased by interstate motor carriers (included are such items as tires, engine repair parts, and items permanently attached to vehicles or held by brackets). Purchases of motor vehicles by interstate motor carriers may be exempt from retail sales tax at the time of purchase, yet use tax may come due on subsequent use when a vehicle is in no longer used in substantial part in transporting persons or property for hire across state boundaries.

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

10. Review Recommendation:

- | | |
|---------------------|---|
| <u> </u> | Amend |
| <u> </u> | Repeal/Cancel (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u> X </u> | Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.) |
| <u> </u> | Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.) |



Explanation of recommendation: Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

Rules 174 and 17401 are written in a clear and concise manner and met their goals and purposes. There have been no significant changes in law or policy for this topic since the rules were revised in 1997.

11. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
- _____ 2
- _____ 3
- _____ 4